

**LEGAL  
REQUIREMENTS**

28 USC 1738B  
42 USC 666(a)(10)

45 CFR 302.56 & 302.70  
45 CFR 303.8, 303.31 & 303.106

MCLA 552.17 - 552.17a  
MCLA 552.517 - 552.517c  
MCLA 552.455  
MCLA 552.603 - MCLA 552.603b  
MCLA 552.1101 - 1901  
MCLA 722.3  
MCLA 722.27  
MCLA 722.720  
MCLA 780.164, 780.181

**Federal**

Federal regulations define a review as an objective evaluation of information to determine the appropriate child support award or dependent health care coverage using the State's child support guidelines. A State must conduct a review through proceedings before a court or administrative agency or using a quasi-judicial process.

Title IV-D of the Social Security Act requires review of child support orders every three years (or more frequently at state option) without need to show change in circumstances:

- Upon the request of either party, **or**
- Upon request of the state, if there is a current assignment in effect.

The Social Security Act also requires review of child support orders more frequently than every three years if the requesting party demonstrates a substantial change in circumstances. States must also establish criteria for review of orders that do not provide for dependent health care coverage when there is a high potential that a noncustodial parent can obtain it at a reasonable cost.

The Social Security Act also requires a notice to the parties every three years of their right to a review. The Act allows the notice to be included in the order.

**State**

The Friend of the Court Act gives the office of the Friend of the Court (FOC) the authority to review and petition for modification of child support orders. The Act requires that the FOC review child support orders not less than once each 24 months when:

- A party requests a review in writing. This applies to each party independently and regardless of the assistance status of the child.

- The child subject to the order receives Medicaid or public assistance unless:
  - The Family Independence Agency (FIA) notified the FOC that good cause exists not to proceed with support action, **and**
  - Neither party requested a review.
- The child subject to the order receives Medicaid *unless* the order provides for health care coverage of the child **and** neither party requested a review.
- The initiating state in an interstate case requests a review on behalf of a recipient of Title IV-D services.

The Friend of the Court Act also authorizes the FOC to review a child support order at its initiative. Review an order if there is reason to believe that the child support award requires change or that dependent health care coverage is available but not ordered.

### Federal and State

Regulations and state law require use of a child support formula to determine child support and health care coverage obligations. The need for health care coverage of a child or an inconsistency between an existing and a proposed child support obligation must provide a basis to petition for modification.

Federal regulations and state law also contain comparable requirements governing timeframes for response to review requests and completion of reviews, notice to parties, retroactive modification, and interstate actions.

### Interstate

The Uniform Interstate Family Support Act (UIFSA) and the Full Faith and Credit for Child Support Orders Act provide similar rules for determining which state has jurisdiction to modify an order and, when there are multiple orders, which should be recognized as the controlling order subject to modification.

#### Continuing, Exclusive Jurisdiction

A state issuing a child support order retains continuing, exclusive jurisdiction (CEJ) to modify that order as long as the residence of the child, obligor, or individual obligee remains in that state or unless both parties file a written consent for another state to assume CEJ.

#### Controlling Order

The controlling order is the order due recognition for enforcement or modification. The following rules determine which order is controlling:

- When only one order exists, that order is controlling.

- When two or more states have issued orders, but only one can assert CEJ, the order of the CEJ state is the controlling order.
- When two or more states have issued orders and can assert CEJ, the order from the child's home state is the controlling order.
- When two or more states have issued orders and can assert CEJ, but none is the child's home state, the most recent order is the controlling order.
- When two or more states have issued orders but no state can assert CEJ, the responding state may issue a new order and assume CEJ.

The instructions in this Chapter pertain to reviews of child support orders over which Michigan has CEJ.

Refer to Chapter 410 for additional information concerning review procedures if the review involves interstate action with a state which has not adopted UIFSA.

Refer to Chapter 412 for additional information concerning review procedures if the review involves interstate action with a state which has adopted UIFSA.

## DEFINITIONS

Initiated review means a review conducted at the initiative of the FOC.

Periodic review means a review conducted at a specified interval after establishment of an order or completion of the last review when a child subject to the order receives assistance under the Family Independence Program (FIP) or Medicaid.

Requested review means a review conducted at the request of a party or an initiating state.

## REVIEW REQUIREMENTS

Review child support orders in IV-D cases. The review must include an evaluation of the:

- Child support obligation, **and**
- Dependent health care coverage or other medical support provisions in the order.

### Requested Review

Within 15 days of receipt of a review request, determine whether the child support order is due for review. Conduct the review if 24 months have elapsed since the last review at the request of a party or an initiating state or if the requesting party demonstrates a substantial change in circumstances.

**Periodic Review**

Unless an exclusion applies, conduct a periodic review of a support order for a child who receives assistance under FIP or Medicaid:

- 24 months after the date the order was established or date of the last modification, **or**
- If the last review did not result in modification, 24 months after completion of that review including expiration of the 30-day objection period.

**Note:** If you review an order for a child receiving assistance under FIP or Medicaid, upon request or at your initiative, the next periodic review is due 24 months after completion of the requested or initiated review. However, completion of a periodic review does not meet statutory requirements for completion of a requested review.

**HEALTH CARE  
EXCLUSION**

A periodic review is not required when a child receives Medicaid only (i.e., Medicaid but not financial assistance) and the order requires health care coverage for the child. The FOC must review the order upon request if the order is due for review and may initiate a review of the order if they determine it is appropriate.

**GOOD CAUSE  
EXCLUSION**

Good cause determinations exclude certain orders from periodic review.

FIP and Medicaid clients generally must cooperate in support actions to receive assistance. The FIA FIP, or Medicaid worker can grant a good cause waiver if requiring cooperation would endanger a client or child. If good cause exists, FIA may or may not proceed with support action on behalf of a child based on the potential danger to the client or child.

The support specialist informs the FOC of good cause claims and determinations. On the basis of the notice, the FOC should proceed as follows:

1. An FIP or Medicaid client claimed good cause: Do not conduct a *periodic* review until you receive notice of FIA's determination on the good cause claim. You can conduct a review at the request of the other party. However, the FIP or Medicaid client is not required to cooperate pending a determination on the good cause claim.
2. Good cause does not exist. Conduct *periodic* reviews. The client must cooperate to receive assistance. Notify the support specialist if the client fails to cooperate.
3. Good cause exists, support action can proceed. Conduct *periodic* reviews. The client is not required to cooperate to receive assistance. However, FIA policy permits its staff to release case record

information (e.g., grant amount, earned or other income, etc.) to FOCs in conjunction with administration of assistance programs.

4. Good cause exits, FIA will not proceed with support action. The IV-D case qualifies for closure. Do not conduct *periodic* reviews. You can conduct a requested review to meet statutory requirements. However, the client is not required to cooperate to receive assistance. FIA can provide you with the amount of the client's FIP grant but cannot release other case information except by court order.

**Note:** Take steps to safeguard the address of the client and child when notified that a client has good cause not to cooperate in support actions.

### Initiated Review

The FOC can initiate a review when there is reason to believe that a child support obligation requires change or that dependent health care coverage is available but not ordered. Grounds to initiate a review include:

- Change in the physical custody of a child not ordered by the court;
- Increased or decreased need of a child;
- Changed financial conditions of the parties including, but not limited to, changes in:
  - public assistance status,
  - unemployment benefits, **or**
  - workers compensation status;
- Probable access by an employed parent to dependent health care coverage, **or**
- Any other substantial change in circumstance demonstrated by either party.

Regulations require that IV-D agencies establish written criteria to identify, and seek modifications of, orders that do not require dependent health care coverage when coverage may be available to a payer at a reasonable cost. To meet regulatory requirements and consistent with state law, initiate a review when all of the following conditions exist:

- The support order does not require that either party obtain or maintain dependent health care coverage.
- The order is not excluded from periodic review due to a good cause determination.

- Either party begins to work for an employer that offers health care coverage for dependents of employees, or the parent maintains medical coverage for themselves and can obtain coverage for the child at a reasonable cost.
- The custodial parent and child(ren) do not have adequate health care coverage.

**Note:** Health care coverage **excludes** Medicaid.

### Existing Michigan Order

#### Responding State is a UIFSA State

Review the Michigan order and modify the order if appropriate.

Petition the responding state to replace their responding URESA order with a UIFSA registration of the newly modified order for enforcement.

### No Existing Michigan Order

#### Responding State is a UIFSA State

If there are no other known orders, use the Child Support Enforcement Transmittal #1 to request the responding tribunal to modify the order.

If there are other known orders, determine which state has CEJ for modification and request that state to modify the order or if one party or child reside in the issuing state, register the order for modification in the non-moving party's state.

Refer to Chapter 412 for details.

## NOTICE AND HEARING REQUIREMENTS

### Notice of Right To Review

Inform each party subject to a child support order at least once every two years of the right to request a review and how and where to make the request.

### Advance Notice

Provide each party with a 30-day advance notice of a review. The notice must request income, expense and other information as needed from the party to conduct the review and specify when the information is due. Send the notice to a party at his or her last known address.

### Post Review Notice

After completion of a review, inform the parties of the results of the review. The notice must inform parties of a:

- Proposed increase or decrease in the child support amount,
- Proposed modification to order health care coverage, **or**
- Determination that there should be no change in the order.

The notice must also inform the parties:

- That a party may object to the proposed modification or determination at a hearing before the court or referee.
- The time, place, and manner in which to raise objections

The petition for modification can serve as notice of a proposed change in the child support or health care obligation.

Reports, transcripts, recommendations and supporting, or a summary of supporting, documents prepared or used by the FOC in reviewing an order must also be available to each party and his/her attorney before the court modifies the order.

**Interstate**

Send notices to the party residing in the initiating state through the IV-D agency in that state. The initiating state will forward the notices to the requesting party or assistance recipient.

**Hearing**

Parties have 30 days after the date of the post-review notice to raise objections. If a party submits a timely, written objection to a determination that there should be no change, schedule a hearing before the court. Schedule a hearing on a proposed modification no earlier than 30 days after the date of the post-review notice.

**USE OF FORMULA  
AND PETITIONS**

Use the state's child support formula to calculate recommended child support obligations.

**Documentation**

The parties subject to a child support order are the primary sources of income and expense information needed to apply the child support formula (see "Notice Requirements"). Obtain information from employers pursuant to the Friend of the Court Act, from FIA (see "Good Cause") and from the State Parent Locator Service (PLS) if necessary.

The State PLS can provide income, asset and address information on payers (see the 300 series of MFOC Section 4000). Request State PLS searches 2-3 months before a review is due in an FIP or Medicaid case to ensure that the information is available by the review date.

**Deviations &  
Reports**

Prepare a report if the office imputes income to a party or determines that application of the formula would be unjust or inappropriate in a case. The report must contain:

- The support amount calculated using actual income of the parties and related factual assumptions,
- An alternative support recommendation and related factual assumptions including evidence that a party is or is not able to earn any income imputed to the party,

- The amount by which the alternative recommendation deviates from the formula, **and**
- Reasons for the alternative recommendation.

**Petitions**

When existing and proposed child support obligations differ, the office must petition the court for modification unless the difference:

- Is less than the threshold defined in the formula, **or**
- Results from a prior deviation from the formula and the basis and amount of the deviation remain the same.

Petition for modification to order dependent health care coverage if the order lacks provisions for that coverage.

The FOC can petition the court for modification of an order concurrent with mailing of the post review notice. The Office of Child Support (OCS) recommends this practice since retroactive modification of an order is permitted only from the date that notice of the petition is provided to the parties.

**Note:** As indicated above, do not schedule a hearing on a proposed modification earlier than 30 days after the date of the post-review notice.

**Retroactive Correction**

The FOC can petition for retroactive correction of the amount of support if a party to the action who was required to report his or her income failed to report or misrepresented his or her income.

**TIMEFRAMES**

Complete the review process within 180 days of the date a periodic review is due or the date the office decides that an order is due for review in response to a request. The review process includes:

- Mailing of advance and post-review notices,
- Calculating the recommended support obligation,
- Holding a hearing, **and**
- Petitioning for and obtaining a modification if appropriate.

**Example:** An order entered on behalf of a child receiving assistance under FIP becomes 24 months old and due for periodic review April 1. The review must be completed and any modification obtained by September 27.

An order entered for a child who is not receiving assistance becomes 24 months old on April 1. The FOC receives a review request May 1 and determines that the order is due for review on May 15. The review must be completed and any modification obtained by November 11.